

1191 - 1952 Service



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File No.

Legal Dept-

A BRANCH

Subject:— O Born Food (Restriction
on service etc)

1941 - 1952

Opinions under the Bombay
Food (Restrictions on service of
meals by catering establishments
order 1944.

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File No.

C. Born Food (Restriction
on service etc) / 41-52

C O N T E N T S.

Legal Department Vol.No.O.Bom.Food (Restrict. on services etc)1944

Sr.No. R.I./O.No. Subject. Pages.

Opinions under the Bombay
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of meals by catering estab-
lishments)Order,1944.

O.Bom.Food (Restrict
on Service etc)/1944.

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| 1. | <u>O.No.135 confld</u>
dt. 3-4-44. | Re: Prosecution of the owner
of the Hotel Argentine for
serving meals in contraven-
tions of the Bombay Food
(Restrictions on Service
of meals by Catering Es-
tablishments)Order,1944. | 1-2 |
|----|---------------------------------------|---|-----|

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Office of the R.I.A.

It is no doubt ~~that~~^{true} that the Hotel Argentina menu card of 14th March 1944 contains two or more substantial, subsidiary and sweet dishes but that by itself would hardly be sufficient to charge the Hotel with serving meals in contravention of the Bombay Food (Restrictions or Service of Meals by Catering Establishments) Order 1944. The menu merely sets out the dishes ~~available~~ available for selection and does not give rise to any inference that the Hotel had offered to serve or had actually served more than the permissible courses on 14th March. In the absence of independent evidence on the point a prosecution on the basis of the menu card would be untenable.

2. Section 3(1)(c) of the Hoarding and Profiteering Prevention Ordinance, 1943, provides that ~~the~~ Central Government may, by notification in the official Gazette fix in respect of any article the maximum price or rate which may be charged by a dealer or producer. Section 4(c) lays down that no dealer or producer shall sell or offer for sale to any person any article for a price or at a rate exceeding the maximum fixed by notification under section 3(1)(c). "Dealer" has been defined in section 2(b) to mean a person carrying on the business of selling any article, whether wholesale or retail. The Central Government by its Industrial Civil Supplies Department Notification No. P.S./3/15/44, dated the 8th March 1944, issued under section 3(1)(c) of the above mentioned Ordinance, has with effect from 1st March 1944, fixed the maximum price of Scotch Whisky at Rs. 3-4-0 for a full peg inclusive of soda and service charges. The Hotel Argentina menu card of 14th March 1944, has advertised price of Scotch Whisky at Rs. 5-0-0 per peg. Hotel Argentina which presumably holds a license for selling liquor would it seems come within the definition of 'dealer.' Its menu card shows the tariff for various wines and so far as Scotch Whisky is concerned,

it constitutes a prima facie offer of sale at more than the controlled price. But it is not clear whether the menu card was printed before the issue of the Central Government Notification on 8th March 1944 and whether the price of the Scotch Whisky had through oversight not been corrected to be in keeping with the controlled price. If the Hotel is able to show by satisfactory evidence that it had been actually selling the Whisky at the controlled price and that the price shown in the menu card of 14th March was left uncorrected through oversight there is little chance of a successful prosecution under section 13 read with section 4(e) of the Hoarding and Profiteering Prevention Ordinance. It would therefore be advisable before launching a prosecution to secure a menu card of more recent date and to obtain evidence that Whisky was being actually sold after the date of the Central Government Notification at rates in excess of the controlled price.

Sd./- P. N. K.

3/4/44.

Remembrancer of Legal Affairs.

U.R. to F.D. (Supply), No. 135-Conf., dated the

3rd April, 1944.

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20.6.55.

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